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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,549	10/29/2002	Robert B. Hart	32994	7682

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EXAMINER	
YEAGLEY, DANIEL S	

ART UNIT	PAPER NUMBER
3611	

DATE MAILED: 03/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/065,549	Applicant(s) GRAYUM, ROBERT D.
	Examiner Daniel Yeagley	Art Unit 3611

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 December 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 7-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 7-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1 - 4 and 11 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hart et al '134 in view of Cardin, Sr. '761.

Hart shows an apparatus of a hitch and security system for a trailer that can be towed by a vehicle by a coupling hitch having a coupler 18 *adapted* to releasable couple to a vehicle and a hitch bar 15 that is releasably and snugly received in a channel of a receiver tube 50 (figure 4), wherein the receiver tube is rigidly coupled to the trailer 16 and extends at least one-fourth the length of the trailer as shown in figure 2 which includes a cross member 28 extending substantially perpendicular to the receiver tube and inherently welded to the trailer and the receiver tube such that the apparatus of the system can be shiftable between a towing position where the coupling hitch is coupled to the receiver tube by an elongated pin 40 through a hitch opening and a pair of aligned receiver holes spaced from the distal end of the tube (column 1-6) and a secured position where the coupling hitch is removed from the trailer (column 1-2, line 65-3), and wherein the coupling hitch as shown in figure 1 has a lip proximate the hitch bar and spaced from the hitch opening but lacked the plug and a locking pin.

Cardin shows a plug, which comprises a bar, *adapted* to releasably and snugly received in a receiver channel having a flange 23 and includes a locking pin (figure 1) for securing the plug to a receiver tube.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined method of the prior art of Hart removable coupling hitch for providing the trailer with a towing position and a secured position as claimed and would have been obvious to one of ordinary skill in the art to have combined the art as taught by Cardin and modified the secured position of Hart with a locking plug such as shown by Cardin such that when the trailer of Hart is in the secured position the receiver tube is further secured by providing a locking plug to function as a plugging device at the entrance of the tube to prevent entry of unwanted material as well as mask the uncovered end of the receiver tube as suggested by Cardin to further enhance and protect the receiver tube in the secured position of Hart with a locking plug as suggested by Cardin which is further viewed as readable on the instant method claims as claimed.

3. Claims 5 and 7 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hart et al '134 as modified by Cardin, Sr, '761 as applied to claim 1 – 4 above, and further in view of Johnson '106.

Hart as modified by Cardin disclosed an apparatus of a hitch and security system for a trailer that can be towed by a vehicle by a coupling hitch *adapted* to releasable couple to a vehicle and a channel of a receiver tube, wherein the receiver tube is rigidly coupled to the trailer such that the apparatus of the system can be shiftable between a towing position where the

coupling hitch is coupled to the receiver tube by an elongated pin through a hitch opening and a pair of aligned receiver holes of the tube and further having a secured position where the coupling hitch is removed from the trailer and as modified by Cardin having a plug and locking pin releasably and snugly received in a receiver channel for securing the plug to a receiver tube as claimed, wherein the pin of the hitch and security system of Hart comprises a main body and a fixed collar which extends through the tube and hitch coupling but lacked the locking pin having a removable collar as best understood.

Johnson shows the prior art of a lockable hitch pin having a removable collar releasably coupled to an end of the main body where the pin is capable of being shifted between a locked position coupled to the body and an unlocked position where the removable collar is decoupled from the body by a key activated locking mechanism having a threaded engagement with the end of the main body when in the locked position as claimed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified the hitch and security system of Hart as modified by Cardin plug and locking pin arrangement with a through pin such as suggested by Hart and further modified the locking pin arrangement with an alternative locking pin such as shown by Johnson simply as a matter of design choice to further enhance the locking means of the modified secured position of Hart hitch and security system utilizing an alternative locking pin which is well known in the hitch and lock pin art as suggested by applicant disclosure (Para. 16, 19 and 22, line 1-3).

Response to Arguments

4. Applicant's arguments filed 12/4/03 have been fully considered but they are not persuasive. Hart as cited above discloses a removable coupling hitch that is releasably coupled to a receiver tube that includes a pin extending through the receiver as clearly seen in figure 4 of Hart, wherein the receiver of Hart is rigidly coupled to the frame of the trailer and extends at least one-fourth the length of the trailer as shown in figure 2 such as claimed in applicants dependent claim. Cardin as stated above discloses a security plug having a bar portion *adapted* to be releasably and snugly received in a receiver channel that includes a locking pin element as broadly claimed. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the following features upon which applicant relies (i.e., "the hitch bar and security plug both only the length of that part of the receiver tube that is outside the trailer frame" or "to secure the hitch bar from the part where it extends outside of the trailer frame with a locking pin" wherein "the locking pin is close to the entrance of the receiver tube" or that the "security bar is substantially solid metal") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that the "securing pin of Hart would not be able to substitute the securing pin with a locking pin" Hart clearly shows in figures 1- 4, a pin which locks the hitch bar to the receiver tube, wherein the pin extends through the receiver tube and hitch bar as clearly shown in figure 4 and is thus inherently capable of substituting the pin with an alternative locking type pin, for example; such like that as shown by Cardin, obviously either

by extending the length of the bar portion of the plug in order to align the locking feature of the Cardin plug with the apertures in the receiver tube of Hart or by simply adding additional apertures in the receiver tube of Hart to obviously align with the locking feature of the security plug of Cardin in order to engage the locking plug with the receiver to prevent entry of unwanted material into the receiver tube as well as mask the uncovered end of a receiver tube as suggested by Cardin which would further enhance and protect the receiver tube of Hart in a secured position utilizing a locking plug as suggested by Cardin, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Hart discloses a removable coupling hitch that is releasably coupled to a receiver tube for many reasons; e.g.; to reduce the profile of the trailer and to help prevent theft (column 1-2, line 65 – 1), wherein Cardin discloses a security plug having a bar portion releasably and snugly received in a receiver that includes a locking pin to cover and protect the

receiver tube in order to help prevent unwanted items from entering the receiver and to further mask the unsightly appearance of an uncovered end of the receiver (column 1, line 14-18), it would have been obvious to one of ordinary skill in the art to have combined the teaching of Cardin lockable security plug into the uncovered end of Harts' receiver tube to further prevent unwanted material from entering the receiver and mask the uncovered end for safety reasons and aesthetic appearance while further increasing the antitheft feature of Harts' trailer by placing a lockable security plug into the end of a receiver tube as suggested by Cardin. the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is 703-305-0838. The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D Morris can be reached on 703-308-0629. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

D.Y.

March 2, 2004

LESLEY D. MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600